

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GENENTECH, INC. and CITY OF)
HOPE,)

Plaintiffs,)

v.)

AMGEN INC.)

Defendant,)

Consol. Civ. No. 17-1407-CFC

ORDER

Whereas, Plaintiffs have moved the Court to amend the Protective Order (D.I. 209) so that they may use discovery obtained in this litigation to initiate a new patent infringement action against Defendant based on a supplement to Defendant's Biologics License Application No. 761028 (the "sBLA") (*see* D.I. 291);

Whereas, neither party attached the Protective Order to the filings they made in connection with Plaintiffs' motion or discussed the language of the Protective Order during oral argument; and

Whereas, Paragraph 28 of the Protective Order states: "Confidential Discovery Material produced by a Party ... may be used by a Receiving Party only for purposes of this Litigation *or future United States patent infringement litigation*

between the Parties arising from Defendant's filing of Biologics License Application No. 761028" (D.I. 209 at ¶ 28) (emphasis added);

NOW, THEREFORE, at Wilmington this 13th day of March, 2019, it is HEREBY ORDERED that the parties shall submit on or before March 15, 2019 a letter, in fourteen-point font and no longer than 400 words, addressing the following question: In light of the above-quoted language from Paragraph 28 of the Protective Order, why is it necessary to amend the Protective Order in order for Plaintiffs to be able to initiate future patent litigation based on Defendant's sBLA?


UNITED STATES DISTRICT JUDGE